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October 12, 2005

Via Facsimile (412) 341-9996

Thomas E. Reilly, Esquire
2025 Greentree Road
Pittsburgh, PA 15220

RE: WRS, Inc. d/b/a WRS Motion Picture Laboratories v. Plaza Entertainment, Inc., Eric Parkinson, Charles von Bernuth and John Herklotz
U. S. District Court for the Western District of PA, C.A. No. 00-2041
Our File No.: 02514/129966

Dear Mr. Reilly:

I am writing to confirm the telephone discussion that we had yesterday and to address with you some concerns and issues that are related, but which we may not have specifically discussed.

As you know, I have served you with a deposition notice for a Rule 30(b)(6) designee of WRS. You have acknowledged receipt of that notice but have not yet designated a WRS representative to testify. I have also served you with a deposition notice for the deposition of Jack Napor. That deposition was scheduled for today, although, since I sent the notice out without coordinating a date with you, I realized that it might be rescheduled at your request. That is actually what has transpired, although the situation is somewhat more complicated than that. I also note that the deposition notices were preceded by a Second Set of Interrogatories and Request for Production that I served on behalf of Mr. Herklotz in early August, but which have not been answered to date.

EXHIBIT
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You left me a voicemail late last week in which you indicated that there were documents in your office and more documents at the WRS facility. You indicated that I was welcome to travel to those locations to review documents and that we could reschedule the depositions at a mutually convenient time after the review was completed. When we talked yesterday, I respectfully declined this suggested approach, for a number of reasons that I will discuss in some detail here.

As you know, this matter has been pending in one mode or another for approximately five years. To a large extent, I declined your offer to review documents because I have already traveled to the WRS facility, on November 28, 2001, to be precise. At that time, I was presented with an unorganized jumble of documents that made no intuitive sense and seemed to have no reasonable relationship to any of the claims. As I shared with you yesterday, I was not eager to repeat that experience because I viewed it as a waste of my time and my client's money.

I note that John Gibson has already addressed many of these document-related issues and to some extent I discussed with you some of what Mr. Gibson wrote in the Motion to Compel Discovery that he filed on behalf of defendant Charles Von Bernuth on August 16, 2001. As Mr. Gibson aptly pointed out in Paragraph 9 of his Motion, the documents that have been produced by WRS to date " . . . seem to show that the Plaintiff collected $1,228,629.15 in retail sales of Plaza's video titles, billed Plaza a total of $81,351.45 [while] retaining the difference and then filed an action against Plaza for the total of the retail invoices as well as the cost of production in an amount in excess of $1.5 Million Dollars."

I note that, by virtue of its answer to Interrogatory Number 28 of Mr. Herklotz's First Set of Interrogatories, WRS indicated that it kept records regarding the sale of each Plaza video duplicated by WRS. These would be, as identified by WRS, "Customer Purchase Orders sent via fax and e-mail and all internally generated documents by WRS for processing orders which include work orders, shipping documents, and invoices." I note separately, with reference to these interrogatory answers by WRS, that the documents that are indicated as being attached to the answers are not, in fact, attached. (The most notable of these are the documents that purport to support the "calculations underlying plaintiff's claim in this matter of approximately $1.4M." See Interrogatory Number 22 of Herklotz's First Set of Interrogatories to Plaintiff.) I note, too, that these documents were specifically requested of you by my associate, Robert Schweitzer on September 7, 2005 by letter to you.

Tom, this is all a very detailed way of suggesting what I indicated to you on the telephone yesterday:

1. WRS either has or does not have intelligible documents to support its claim.

2. If it does have them, the burden is on WRS to provide the documents.

3. The burden is not on the defendants to search through a haystack of WRS documents in search of the needle that might support its claims.

4. If the documents do not exist, then WRS should voluntarily dismiss this case.

You indicated agreement to point 2 and stated that you would work with your client to provide responsive documents. This needs to be done as soon as reasonably possible. We have a discovery deadline of December 9, 2005. In addition to the impression that Judge Standish would probably not extend the deadline, I will not be in a position to agree to any extensions. Therefore, we must complete discovery by early December.

I need to review the responsive documents prior to the depositions of a WRS designee and Mr. Napor (recognizing that Mr. Napor may be the designee). In addition, there may be other depositions that are required. As you know, I am usually willing to extend professional courtesies regarding scheduling (as have you), but we are pushing the envelope on this discovery schedule, and we need to plan our future activities accordingly. Therefore, I look forward to receipt of the documents that you indicated you would be providing, and I will also look forward to scheduling the depositions at the earliest mutually convenient time thereafter.

Very truly yours,

John P. Sieminski

JPS/tlc
cc: Mr. John Herklotz

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